



February 28, 2002

Ms. Myrna S. Reingold
Legal Department
Galveston County
4127 Shearn Moody Plaza
123 Rosenberg
Galveston, Texas 77550-1454

OR2002-0980

Dear Ms. Reingold:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 159246.

The Galveston County Juvenile Justice Department (the "department") received a request for any and all records of, or pertaining to, a named individual. You state that the department is willing to release some of the responsive information, but claim that the remainder of the responsive information is excepted from disclosure as information held on behalf of the judiciary, or, alternatively, as information excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered the comments submitted to this office by the requestors. *See Gov't Code § 552.304.*

The Public Information Act (the "Act") generally requires the public disclosure of information maintained by a "governmental body." While the Act's definition of a "governmental body" is broad, it specifically excludes the judiciary. *See Gov't Code § 552.003(1)(B).* In determining whether a governmental entity falls within the judiciary exception of the Act, this office looks to whether the role of the judiciary is in a judicial capacity or solely administrative in nature. *See Open Records Decision No. 646 at 2-3 (1996) (citing Benavides v. Lee, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ)).*

You inform us that the information you seek to withhold relates to a juvenile who was found guilty by a jury and placed on probation by the trial court with rules and conditions ordered for the probation. You specifically contend that probation officer notes, polygraph test results, psychological assessments, psychologists' notes, and the notes of other juvenile probation department staff are records maintained on behalf of the judiciary. In a similar context, this office has concluded that a community supervision and corrections department holds probationers' records on behalf of the judiciary as an agent of the judiciary. Open Records Decision Nos. 646 at 5 (1996), 236 (1980) (records of an adult probation office, indicating whether probationers are complying with terms of probation, are records of the judiciary and not subject to the Act). Because we find that the information you seek to withhold constitutes the records of an individual on probation that are maintained by the department at the direction of the district court as part of the court's judicial function, we conclude that the documents at issue are records of the judiciary. Thus, the department has no obligation under the Act regarding the release of the records at issue.¹ As we are able to make this determination, we need not address your claimed exceptions.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

¹The release of the requested information is within the discretion of the court, acting through its agent, the department. See Open Records Decision No. 646 at 4 n. 3 (1996) (citing Open Records Decision No. 236 at 2-3 (1980)).

of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/seg

Ref: ID# 159246

Enc. Submitted documents

c: Mr. Michael Zombory
Ms. Sheri Zombory
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(w/o enclosures)